

IN THE SUPREME COURT OF THE STATE OF DELAWARE

**ORDER AMENDING** §  
**DELAWARE SUPREME COURT** §  
**RULE 71** §

Before **STEELE**, Chief Justice, **HOLLAND, BERGER, JACOBS**, and **RIDGELY**, Justices, constituting the Court *en Banc*.

**ORDER**

This 26th day of August 2013, it appears to the Court that it is desirable to amend Delaware Supreme Court Rule 71 by adding a new subsection. The following amendment shall be effective immediately.

NOW, THEREFORE, IT IS ORDERED:

1) That Rule 71 of the Delaware Supreme Court Rules is hereby amended by adding a new subsection (i), as follows:

(i) *Admission of Foreign Lawyer*

1) A foreign lawyer is a person admitted in a non-United States jurisdiction and who is a member of a recognized legal profession in that jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority, and who is not disbarred, suspended, or the equivalent thereof from practice in any jurisdiction.

2) A court or agency of this state may, in its discretion, admit a foreign lawyer in a particular proceeding pending before such court or agency to appear *pro hac vice* in a defined role as a lawyer, advisor or consultant in that proceeding with an in-state lawyer, provided that the in-state lawyer is responsible to the client, responsible for the conduct of the

proceeding, responsible for independently advising the client on the substantive law of a United States jurisdiction and procedural issues in the proceeding, and for advising the client whether the in-state lawyer's judgment differs from that of the foreign lawyer. See subsection (4).

3) In addition to the factors listed in this Rule, a court or agency in ruling on an application to admit a foreign lawyer *pro hac vice*, as a lawyer, advisor, or consultant shall weigh factors, including:

- a) the legal training and experience of the foreign lawyer including in matters similar to the matter before the court or agency;
- b) the extent to which the matter will include the application of:
  - 1. the law of the jurisdiction in which the foreign lawyer is admitted; or
  - 2. international law or other law with which the foreign lawyer has a demonstrated expertise.
- c) the foreign lawyer's familiarity with the law of a United States jurisdiction applicable to the matter before the court or agency;
- d) the extent to which the foreign lawyer's relationship and familiarity with the client or with the facts and circumstances of the matter will facilitate the fair and efficient resolution of the matter;
- e) the foreign lawyer's English language ability; and
- f) the extent to which it is possible to define the scope of the foreign lawyer's authority, so as to facilitate its fair and efficient resolution, including by a limitation on the foreign lawyer's authority to advise the client on the law of a United States jurisdiction except in consultation with the in-state lawyer.

4) The court or agency shall limit the activities of the foreign lawyer or require further action by the in-state lawyer,

as appropriate in its discretion in light of subsection (i)(3). It may, for example, require the in-state lawyer to sign all pleadings and other documents submitted to the court or to other parties, to be present at all depositions and conferences among counsel, or to attend all proceedings before the court or agency.

5) If any documents submitted to the court, or referenced in any submission to the court, and which is not in English, the applicant shall submit an English translation and satisfactory proof of the accuracy of the translation. If any disciplinary proceeding is referenced in the motion as described in subsection (b)(vii), a certified copy of any finding or order shall be attached to the motion; and if not in English, the applicant shall submit an English translation and satisfactory proof of the accuracy of the translation.

2) The Clerk of this Court is directed to transmit forthwith a certified copy of this Order and attachment to the clerk of each trial court in each county.

BY THE COURT:

/s/ Randy J. Holland  
Justice